

## MRS. MARGARET M. ROSS

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DECEMBER 1 (legislative day, NOVEMBER 18), 1943.—Ordered to be printed

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Mr. HOLMAN, from the Committee on Public Lands and Surveys,  
submitted the following

## REPORT

[To accompany S. 1323]

The Senate Committee on Public Lands and Surveys, to whom was referred the bill (S. 1323) for the relief of Mrs. Margaret M. Ross, having carefully considered the same, report favorably thereon with the following amendment and with the recommendation that the bill, as amended, do pass.

Strike out all after the enacting clause and insert the following:

That jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render judgment upon the claim of Mrs. Margaret M. Ross, of Tacoma, Washington, for damages arising out of the patenting to another person of lands in Pacific County, Washington, which had been selected or entered by said Mrs. Margaret M. Ross, under the homestead laws, and for damages arising out of the subsequent cutting of timber from such lands.

SEC. 2. Suit upon such claim may be instituted at any time within one year after the date of enactment of this Act, notwithstanding the lapse of time or any statute of limitations. Proceedings for any judgment thereon shall be in the same manner as in the case of claims over which said court has jurisdiction under section 145 of the Judicial Code, as amended.

The subcommittee to which this bill was referred held hearings thereon and was of the opinion that an opportunity should be afforded Mrs. Ross to present her case to the Court of Claims and, accordingly, recommended the amendment above.

The adverse report of the Secretary of the Interior to the chairman of the committee under date of November 3, 1943, is hereinbelow set forth in full and made a part of this report.

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DEPARTMENT OF THE INTERIOR,  
Washington, D. C., November 3, 1943.

Hon. CARL A. HATCH,  
Chairman, Committee on Public Lands and Surveys,  
United States Senate.

MY DEAR SENATOR HATCH: Further reference is made to your letter of July 13, enclosing for report a copy of S. 1323, a bill for the relief of Mrs. Margaret M. Ross.

It is recommended that the bill be not enacted.

While the bill has for its object the payment of money to Mrs. Ross for compensation for the patenting to another person of a certain tract of land, it neither specifies a particular amount to be paid nor provides for the way of ascertaining the amount.

The description "west quarter" contained in line 11, page 1, of the bill, is ambiguous. It is believed that the bill is intended to describe the  $W\frac{1}{2}W\frac{1}{2}$  sec. 28, T. 15 N., R. 6 W., W. M., Oregon.

The tract described appears to have been first formally applied for on July 24, 1899, when C. W. Clarke filed forest lieu selection, now Seattle 03476, for this land and other lands, but this selection was canceled as to that tract pursuant to departmental decision of January 4, 1916 (45 L. D. 54), which held that the selection should be canceled because the record disclosed that the land was occupied and contained improvements at the time of the filing of the selection. After mentioning other parties who had previously occupied and improved the land, the decision states, "In 1910, Mrs. Vanderpool settled upon the land and had been continuously residing there until the date of the hearing." However, May Vanderpool and Margaret M. Ross, both claiming rights to the land by prior settlement, had filed protests against the forest lieu selection and thereafter followed a series of letters, affidavits, a hearing, and decisions relating to the merits of the respective claims. There were also personal encounters between the two factions, one faction being composed of Mrs. Ross and her sons and the other, Mrs. Vanderpool and her friends. At one time, in January 1914, the house and woodshed of Mrs. Ross were burned and she and her sons forced to leave the neighborhood. One decision rendered, that of the Commissioner of the General Land Office of July 2, 1917, held in favor of Mrs. Ross, but the final decision rendered by the First Assistant Secretary of the Interior on August 29, 1919, was in favor of Mrs. Vanderpool to whom a patent was issued for the land on September 12, 1919, in accordance with that decision.

The decision was rendered after careful consideration of the merits of the claims of both parties and the issuance of the patent divested the United States of all title to and removed from this Department all jurisdiction over the land. Thereafter, any controversy over the title to the land became a matter for the consideration of the local courts and while the records disclose that Mrs. Ross was the principal in various court actions, the records do not show that she had this particular matter presented to any local court.

According to the findings of this Department, Mrs. Ross has no valid claim to the land to which she sought to obtain title and the rejection of her application did not obligate the Government to make any payment to her other than to refund the fees and commissions which she paid amounting to \$22. Check No. 209 in favor of Mrs. Ross for this amount was issued by J. W. Oyen, the receiver of the district land office at Seattle, Wash., May 1, 1918. Presumably she has received the payment.

The question of authorizing payment to any party because of an adverse decision by this Department against that party, not only in a case of this kind where it appears that the decision was correct, but even in a case where another tribunal has held that the decision is incorrect, should receive grave consideration. The establishment of such a precedent would have far-reaching results inimical to the interests of the Government.

The President in his veto message June 10, 1941, in connection with H. R. 2054, Seventy-seventh Congress, which had for its purpose the conferring of jurisdiction upon the Court of Claims to hear, determine, and render judgment upon certain claims of this kind, stated:

"Public policy requires that Government officers and commissions clothed by the Congress with the authority to pass on rights of individuals may do so without subjecting the Government to liability for damages, if the courts later disagree with their determinations. Otherwise an intolerable financial burden might be imposed on the taxpayers, and the efficient performance of government functions impeded."

The Bureau of the Budget has advised me that it has no objection to the presentation of this report.

Sincerely yours,

HAROLD L. ICKES,  
*Secretary of the Interior.*